

**ZB# 98-38**

**Michael Lucas**

**20-2-52**

Prelim.

Sept. 14, 1998.

SEQ.

Motion to schedule P.H.

Interpretation Use 1976  
notice to submit Letters conf

Public Hearing:

Oct. 26, 1998.

Interpretation  
to allow retail  
sales.

Refund: \$367.00

#98-38 - Lucas, Michael

Use/Interp.

20-2-52

WILSON JENNIFER, CHATTAHOOCHEE, 31804-0001, COUNCIL # 34807, 11-19-98

# RECEIPT 065653

DATE Oct 7, 1998

RECEIVED FROM Michael D. Lucas

Address \_\_\_\_\_

One hundred fifty 00/100 DOLLARS \$ 150.00

FOR FOR ZBA # 98-38

ACCOUNT		HOW PAID	
BEGINNING BALANCE		CASH	<u>Oct 2653</u>
AMOUNT PAID		CHECK	<u>150.00</u>
BALANCE DUE		MONEY ORDER	

Town Clerk

BY Dorothy H. Hanger

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Lucas

FILE# 98-38

RESIDENTIAL: \$50.00  
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA     

USE X

APPLICATION FOR VARIANCE FEE ..... \$ 150.00

*paid 10/7/98  
ck # 2652*

ESCROW DEPOSIT FOR CONSULTANT FEES ..... \$ 500.00

*pd. 451  
ck #*

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 9/14/98-7 \$ 31.50  
2ND PRELIMINARY- PER PAGE 10/26/98-7 \$ 31.50  
3RD PRELIMINARY- PER PAGE ..... \$       
PUBLIC HEARING - PER PAGE ..... \$       
PUBLIC HEARING (CONT'D) PER PAGE ..... \$     

TOTAL ..... \$ 63.00

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: 9/14/98 ..... \$ 35.00  
2ND PRELIM. 10/26/98 ..... \$ 35.00  
3RD PRELIM. .... \$       
PUBLIC HEARING ..... \$       
PUBLIC HEARING (CONT'D) ..... \$     

TOTAL ..... \$ 70.00

MISC. CHARGES:

..... \$     

TOTAL ..... \$ 133.00

LESS ESCROW DEPOSIT ..... \$ 500.00

(ADDL. CHARGES DUE) ..... \$     

REFUND DUE TO APPLICANT .. \$ 367.00

*Refund.*

Date ..... 11/13 ..... , 19<sup>98</sup> .....

# TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO Arlene Lucas &  
Michael D. Lucas DR.  
146 Quessaick Avenue

[illegible]

ARLENE LUCAS  
146 QUASSAICK AVE.  
NEW WINDSOR, NY 12553

10-4/220  
BRANCH 422

451

Oct. 7 1998

PAY TO THE  
ORDER OF

Town of New Windsor

\$ 500 <sup>00</sup>/<sub>100</sub>

Five hundred

DOLLARS

Security Features  
included  
Details on back

**Met Bank**

Manufacturers and Traders Trust Company - Buffalo, N.Y. 14240  
Hudson Valley Division  
Newburgh Office

FOR Zany App #98-38

*Arlene Lucas*

⑆022000046⑆⑆1000910696353⑆ 0451

MICHAEL D. LUCAS  
D/B/A MICHAEL D. LUCAS CONTRACTOR  
98 RIVER RD.  
NEW WINDSOR, NY 12553

2652

10-4/220  
BRANCH 422

Pay to  
the order of

T of N. W

DATE

9/9/98

\$ 150 <sup>00</sup>/<sub>100</sub>

One hundred + Fifty + 00

DOLLARS

Security Features  
included  
Details on back

**Met Bank**

Manufacturers and Traders Trust Company - Buffalo, N.Y. 14240  
Hudson Valley Division  
Newburgh Office

FOR 2BA #98-38

*Michael D. Lucas*

⑆002652⑆⑆022000046⑆⑆1000910653436⑆

In the Matter of the Application of

**MICHAEL LUCAS**

**MEMORANDUM  
INTERPRETING PRIOR  
USE OF PROPERTY**

#98-38.

**WHEREAS, MICHAEL LUCAS, residing at 146 Quassaick Avenue, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for an interpretation of retail use of property located at 1105 River Road in a PI zone; and**

**WHEREAS, a public hearing was held on the 26th day of October, 1998 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and**

**WHEREAS, Arlene Lucas, wife of the Applicant, appeared on behalf of this Application; and**

**WHEREAS, there was one spectator appearing at the public hearing; and**

**WHEREAS, the spectator spoke briefly but did not oppose the application; and**

**WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and**

**WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:**

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The building is a commercial building with an apartment located on a busy commercial highway.

(b) The building is located opposite a fuel oil tank facility and a soil burning facility. The building is adjacent to a multi-family use and a bar and grill.

(c) The property has been marketed for all allowed uses for approximately four years and the only interest shown in the property is for use as a retail premises.

(d) The property is approximately 8,115 sq. ft. which is approximately 20% of the smallest allowed use in a PI zone.

(e) The property is currently used for the sales and service of windows, siding and other commercial/construction for the sale and display and sale of building products.

(f) An allowed use in the PI zone is businesses which combine office space with a warehouse or center for distribution of products. Such use requires a variance of 80,000 sq. ft.

(g) Site plan approval was received from the Planning Board for its present use.

(h) Area variances were received in November of 1987 for square footage, front yard, lot width and parking spaces.

(i) The previous area variance granted was for 71,000 sq. ft. to allow its present use for the retail sale of building products.

(j) It appears that this property has been used as a combination of retail and office use since that time. The New Windsor Code is silent as to the meaning of the word "business" and does not indicate whether or not that is intended to include retail businesses.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. Considering the variances previously granted and the actual use of the building, the word "businesses" as it appears in the Town of New Windsor Code in the PI zone should be interpreted to include retail use of this property.

2. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

3. There is no other feasible method available to the Applicant which can produce the benefits sought.

4. The variance requested is substantial in relation to the Town regulations nevertheless is warranted for the reasons listed above.

5. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

6. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

7. The benefit to the Applicant, if the requested variance is granted, outweighs the



detriment to the health, safety and welfare of the neighborhood or community.

8. The requested variance is appropriate and is the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

9. The interests of justice will be served by allowing the granting of the requested area variance.

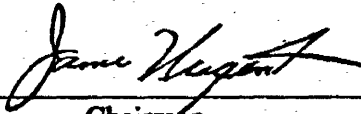
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor interpret the above request to include retail use of the property at 1105 River Road in a PI zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: January 25, 1999.

  
\_\_\_\_\_  
Chairman

Date 11/4/98, 19.

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

Frances Roth  
168 N. Drury Lane

TO ..... Newburgh, N.Y. 12550 ..... DR.

DATE			CLAIMED	ALLO
10/26/98		Zoning Board Mtg	75 00	
		MISC - 2		
		Mobil Oil - 1		
		Steak/Pizza Hut - 5		
		Sommerlad - 3		
		Vanderossen - 5		
		K.C. Dev. Corp - 3		
		Lucas - 7 * 31.50		
		Crossette - 3		
		Heesler - 3		
		32	144 00	
			219 00	

LUCAS, MICHAEL

MR. NUGENT: Is there anyone here for the Michael Lucas public hearing? Let the record show there's no one here in the audience. Request for interpretation and/or use variance for t=retail flower shop in P.I. zone to be located at 1105 River Road.

Mrs. Arlene Lucas appeared before the board for this proposal.

MR. KRIEGER: Let the record reflect there's no public.

MS. BARNHART: For the record, I sent out 29 addressed envelopes containing the legal ad on October 7, 1998.

MR. NUGENT: Okay, Arlene, you're on.

MR. LUCAS: What, we'd like to do is change the use from a PI zone to a commercial retail. The property, we have had the property on the market four years now and anybody that shows any interest wants to use it for commercial retail, so I need a use variance.

MR. KRIEGER: How big is the property, do you know?

MS. BARNHART: 8,115 square feet.

MR. KRIEGER: It's not large enough for any of the uses listed in PI, it's 10 percent of the, I take that back, it's 20 percent of the smallest allowed use.

MRS. LUCAS: I have pictures.

MR. TORLEY: What are your neighbors on each side?

MRS. LUCAS: Pete & Dolly's Tavern, my neighbor across the street is the soil burning plants, I have a house on the other lot right next door to that, right next to the soil burning plant, there's an auto repair shop and parts place, I don't know the name of it.

MR. RICHARD OSSNER: What side of the street are you on, river side or the other side?

MR. KRIEGER: Other side.

MRS. OSSNER: At the bottom?

MRS. LUCAS: There's Cullen and I don't know the name of the other street.

MR. BABCOCK: Coffee.

MR. OSSNER: Right in there.

MR. NUGENT: We'll open it up, we'll give you a chance to talk in a minute. Let's get all the information from here, first.

MS. OWEN: Can we see the pictures?

MR. REIS: What's the intended use if things work out?

MRS. LUCAS: I don't have a buyer for it right now. The last people wanted to open a flower shop and have a retail business there. I think the broker told us if we can have it changed to commercial retail use, it would sell much faster, it would be a little more appealing. It's difficult even with the soil burning plant across the street.

MR. KRIEGER: This fronts on a busy commercial highway that is well traveled?

MRS. LUCAS: Yes, River Road, yes.

MR. REIS: Do you have any parking?

MR. TORLEY: This entire structure is now vacant?

MRS. LUCAS: I have a caretaker's apartment upstairs and Mike has his shop and all this downstairs.

MR. KANE: It's currently used for carpentry?

MRS. LUCAS: Yes.

MR. KRIEGER: As a display and sale of building products?

MRS. LUCAS: Windows and doors.

MR. NUGENT: Mike, the one that I can see that even comes close in a PI zone is number 2 businesses which combine office space with a warehouse or center for distribution of products, that's the only ones that comes close.

MR. BABCOCK: Right.

MR. NUGENT: Problem being it requires 80,000 square feet of property.

MR. BABCOCK: Right.

MR. NUGENT: I don't know if we could stretch it as an interpretation for that piece of property.

MR. BABCOCK: Yeah, I think the consideration for the interpretation was, Mr. Chairman, that the last time Mr. Lucas was here, he made a statement that he had been selling windows and doors.

MR. KANE: He had been using it.

MR. BABCOCK: Out of his shop, so in thoughts of that, you know, that's basically considered retail, if he sells a door or somebody sells a flower or whatever, so that was the one consideration whether it may be an interpretation rather than a use variance. And that's basically up to this board to decide.

MS. BARNHART: How old is the building?

MRS. LUCAS: How old, you know, I really don't know, '87, '88.

MR. NUGENT: It's at least ten years old.

MRS. LUCAS: 1987 we built it.

MR. TORLEY: Always a PI zone down there?

MR. BABCOCK: Yes.

MRS. LUCAS: Yes.

MR. BABCOCK: Yeah, he received Planning Board approval for the use that's there now and also variances back in November of 1987.

MR. KANE: For the use as a carpentry retail?

MR. BABCOCK: No, use, the use at that time was determined that it was a proper use in the PI zone.

MR. TORLEY: Carpentry.

MR. BABCOCK: He got area variances, he got square footage, front yard, lot width and three parking spaces.

MR. NUGENT: What was the area?

MR. BABCOCK: The area he got?

MR. KANE: 71,000 square feet.

MR. NUGENT: I can't understand why they are here, if they have those variances already, what's the difference?

MR. BABCOCK: Right.

MR. TORLEY: Variance for retail flower, I'm sorry, for purely retail purposes?

MR. NUGENT: For a business which this is.

MR. KANE: Selling retail.

MR. NUGENT: My only restraint was because of the lot being so small, but they've got a variance for 71,000 square feet.

MR. TORLEY: This has been used as a combination since the late '80's as combination warehouse office space with retail functions going on as well.

MRS. LUCAS: Yes.

MR. NUGENT: Never ceased being that?

MRS. LUCAS: No.

MR. BABCOCK: The thing is is that when we had talked and I talked to some potential buyers nowhere ever did it state that it said retail and that's where our little problem is. You know, it says proposed two story block building first floor shop and office, okay, it didn't ever say retail and that's where I think our dilemma is because even though Mr. Lucas is selling windows out of there, it never really said retail, although it should of said that.

MR. KRIEGER: I think the dilemma is this the code says businesses, when you combine office space with a warehouse center for the distribution of products wherein such warehouse, other distribution center is incidental to the main purpose of the business. Business would mean retail as well as other things, but it doesn't say that in the code. So even the code is silent, if the site plan were silent, so it needs an interpretation from the zoning board to fill in the blank to say yeah, businesses include retail.

MR. BABCOCK: Yeah, today as you gentlemen and ladies know, the banks are, if the word retail isn't there, it's a problem for them.

MR. KRIEGER: Might also point out at the time this was made PI down there which is the reason for the smallness of the lot, this wasn't envisioned by the original people who did it. They were looking at the oil tanks and the bigger pieces of property.

MR. BABCOCK: We go through this basically every day, a restaurant comes into the town, gets an approval, nobody ever mentions that it's retail, but you can go in and by a hamburger and take it out. So they're retail, yes, but it's never really mentioned through the process, everybody says it's a restaurant and that is exactly what happened here. So, we need this basically to say it's a continued use through an

interpretation and/or a use variance for retail use so that she doesn't have any problems getting a tenant or possibly selling the building.

MR. NUGENT: Myself in particular I would rather see it as an interpretation than I would a use variance, use variance is going to be much harder.

MR. KANE: I think the original intent of the variances in the papers were the intent on giving them 71,000 square feet to make them be able to use the property in a business sense which is retail, so I think it's an interpretation too that we should interpret it as such.

MR. TORLEY: Any sort of retail operation, I agree, any sort of a reasonable retail operation is consistent with the previously granted variances.

MR. KANE: I agree.

MR. NUGENT: Why don't you let me open it up to the audience and we'll reopen again to the board for further questions. I'd like to open it up to the public, if you'd like to say something, now is the time to say it.

MR. OSSNER: I approve of this retail office, anything that improves that area is good for the area. In fact, there's a couple of buildings in there that are shacks. Mike did a good job restoring them. And I think that he should be granted the variance that's necessary to keep this thing going. It's improving the area. Richard Ossner, I wrote it down on a piece of paper, 82 Bethlehem Road, New Windsor.

MR. NUGENT: At this time, I'll close the public hearing and I'd like to read into the record I have a letter from Mr. Richard McGrath and says Mr. Nugent: I have no problem with the flower shop at that location and there's also on the bottom of it I also am not opposed and spoke to our parents who actually reside at 12 Coffee Avenue and they also are not opposed, they actually think it would be a good thing. Mary Ann Kissell. Okay, is there any further questions? I'm not exactly sure how to word it, that's my only



problem.

MR. KANE: I think that the, it should go along the lines of the original intent of the variances that were granted back in 1976 was for the use of this building as a partial retail operation.

MR. KRIEGER: How about this?

MR. BABCOCK: 1987 just so we've got the right variance.

MR. KRIEGER: Considering the variances previously granted and the actual use of the building, the word businesses as it appears in the Town of New Windsor Code of the PI zone should be interpreted to include retail use.

MR. KANE: I'll make that motion.

MR. REIS: Second that motion.

ROLL CALL

MR. KANE	AYE
MS. OWEN	AYE
MR. TORLEY	AYE
MR. REIS	AYE
MR. NUGENT	AYE

**OFFICE OF THE BUILDING INSPECTOR  
TOWN OF NEW WINDSOR  
ORANGE COUNTY, NEW YORK**

**NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION**

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (914)563-4630 TO  
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

**DATE: August 27, 1998**

**APPLICANT: Michael Lucas  
146 Quassaick Ave.  
New Windsor, New York 12553**

**PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: August 27, 1998**

**FOR : Proposed Flower Shop**

**LOCATED AT: 1105 River Road**

**ZONE: PI**

**DESCRIPTION OF EXISTING SITE: 20-2-52**

**IS DISAPPROVED ON THE FOLLOWING GROUNDS:**

- 1. Proposed retail flower shop not permitted in a P-I Zone.**

  
BUILDING INSPECTOR

**PERMITTED**

**PROPOSED OR  
AVAILABLE:**

**VARIANCE  
REQUEST:**

**ZONE: P-1      USE: A-Bulk Tables**

**MIN. LOT AREA:**

**MIN LOT WIDTH:**

**REQ'D.. FRONT YD:**

**REQ'D. SIDE YD:**

**REQD. TOTAL SIDE YD:**

**REQ'D REAR YD:**

**REQ'D FRONTAGE:**

**MAX. BLDG. HT.:**

**FLOOR AREA RATIO:**

**MIN. LIVABLE AREA:**

**DEV. COVERAGE:**

**cc: Z.B.A., APPLICANT, FILE ,W/ ATTACHED MAP**

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS

IMPORTANT

YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing is completed and before it is covered from inside and plumbing rough-in.
5. Insulation.
6. Plumbing final and final. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Permit number must be called in with each inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

PLEASE PRINT CLEARLY

FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises Michael D. Lucas

Address 98 River Rd Phone 561-0489

Mailing Address 146 Quassick Ave

Name of Architect N/A

Address \_\_\_\_\_ Phone \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

State whether applicant is owner, lessee, agent, architect, engineer or builder Owner

If applicant is a corporation, signature of duly authorized officer.

\_\_\_\_\_  
(Name and title of corporate officer)

FOR OFFICE USE ONLY

Building Permit # \_\_\_\_\_

1. On what street is property located? On the East side of River Rd.  
and 0 feet from the intersection of (N, S, E or W) Clinton + River + Silver Stream + River.
2. Zone or use district in which premises are situated P. I. Is property a flood zone? Y N X
3. Tax Map Description: Section 20 Block 2 Lot 52
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.  
a. Existing use and occupancy Shop + Office b. Intended use and occupancy Retail Flower Shop.
5. Nature of work (check if applicable) New Bldg ☐ Addition ☐ Alteration ☒ Repair ☐ Removal ☐ Demolition ☐ Other ☐
6. Is this a corner lot? Yes
7. Dimensions of entire new construction. Front \_\_\_\_\_ Rear \_\_\_\_\_ Depth \_\_\_\_\_ Height \_\_\_\_\_ No. of stories \_\_\_\_\_
8. If dwelling, number of dwelling units: \_\_\_\_\_ Number of dwelling units on each floor \_\_\_\_\_  
Number of bedrooms \_\_\_\_\_ Baths \_\_\_\_\_ Toilets \_\_\_\_\_  
Heating Plant: Gas \_\_\_\_\_ Oil \_\_\_\_\_ Electric/Hot Air \_\_\_\_\_ Hot Water \_\_\_\_\_  
If Garage, number of cars \_\_\_\_\_
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use \_\_\_\_\_
10. Estimated cost \_\_\_\_\_ Fee \$50  
(To be Paid on this Application)
11. School District Newburgh

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

VANCE NEEDED

1 / 19

APPLICATION FOR BUILDING PERMIT  
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK  
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock  
Asst. Inspectors: Frank Lisi, Ernst Schmidt  
New Windsor Town Hall  
555 Union Avenue  
New Windsor, New York 12553  
(914) 564-4618 563-4618  
(914) 563-4693 FAX

Bldg Insp Examined \_\_\_\_\_  
Fire Insp Examined \_\_\_\_\_  
Approved \_\_\_\_\_  
Disapproved \_\_\_\_\_  
Permit No. \_\_\_\_\_

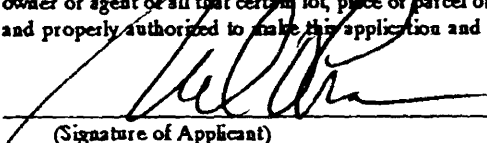
REFER TO:

Planning Board ☐ Highway Dept ☐ Sewer ☐ Water ☐ Zoning Board of Appeals ☐

INSTRUCTIONS

- A. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- B. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- C. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- D. The work covered by this application may not be commenced before the issuance of a Building Permit.
- E. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- F. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

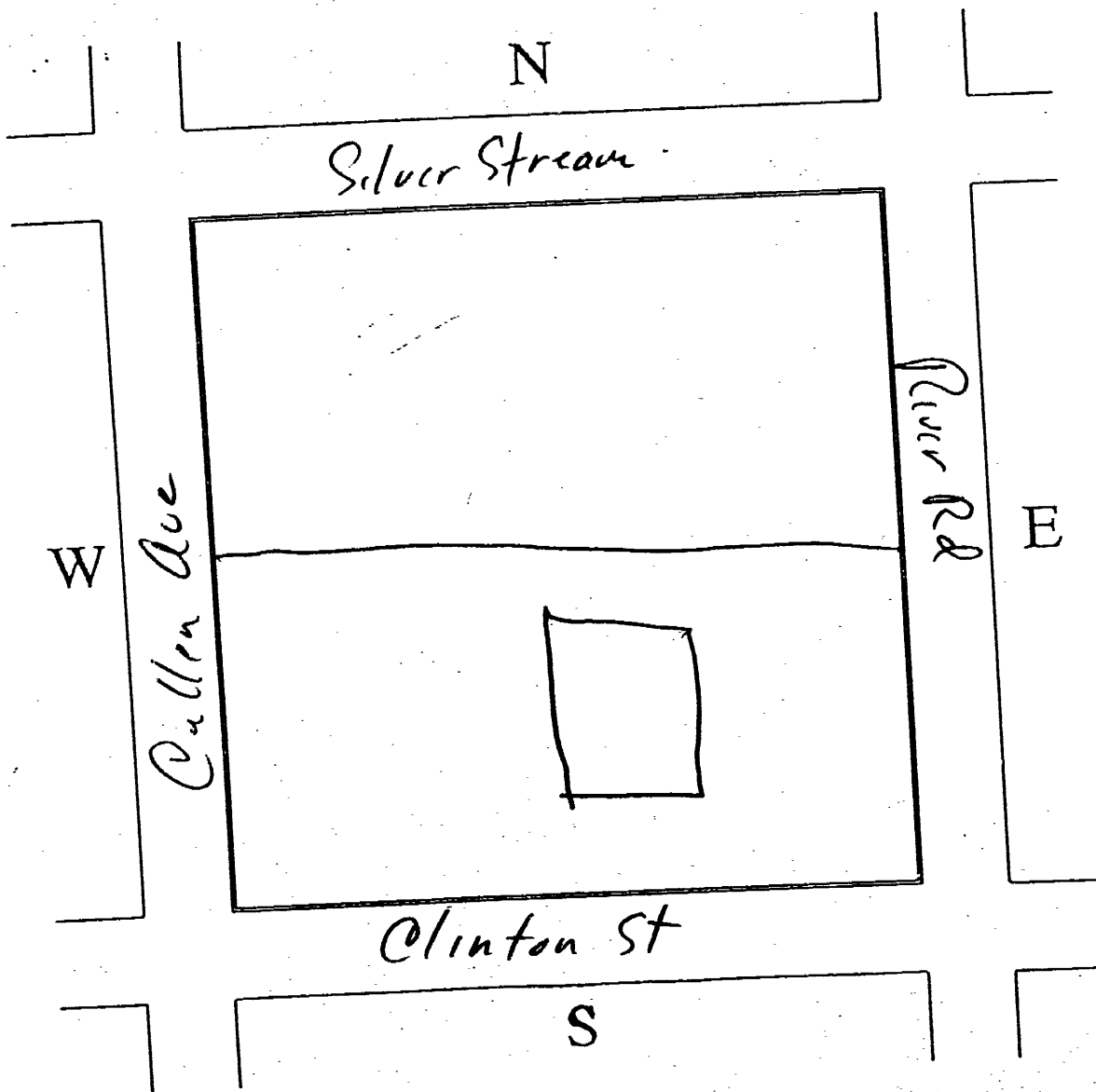
  
(Signature of Applicant)

146 Quassack Ave.  
(Address of Applicant)

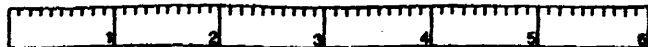
PLOT PLAN

NOTE:

Locate all buildings and indicate all set back dimensions. Applicant must measure clearly and distinctly on the drawings.



SCALE IN 1/10 OF AN INCH



1-800-345-7334

SECTION 17

BROAD STREET

AVENUE

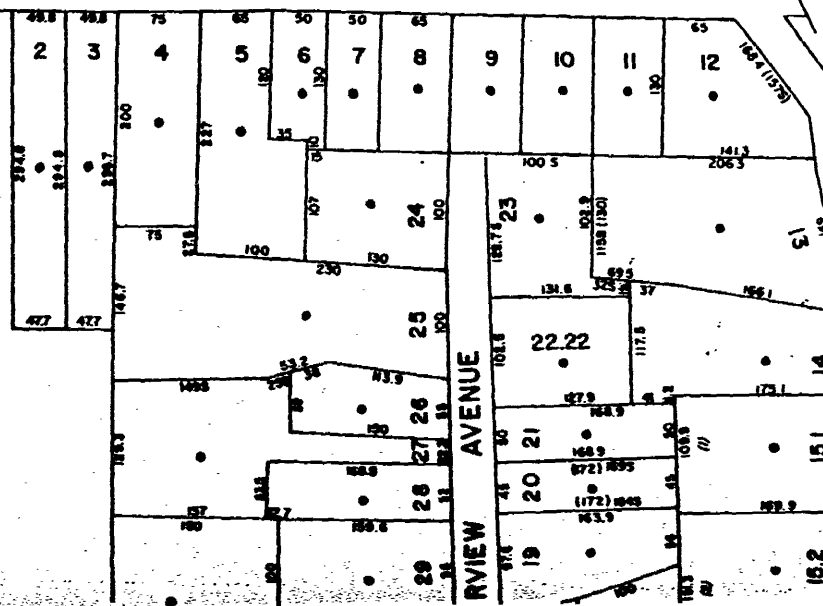
QUASSAICK



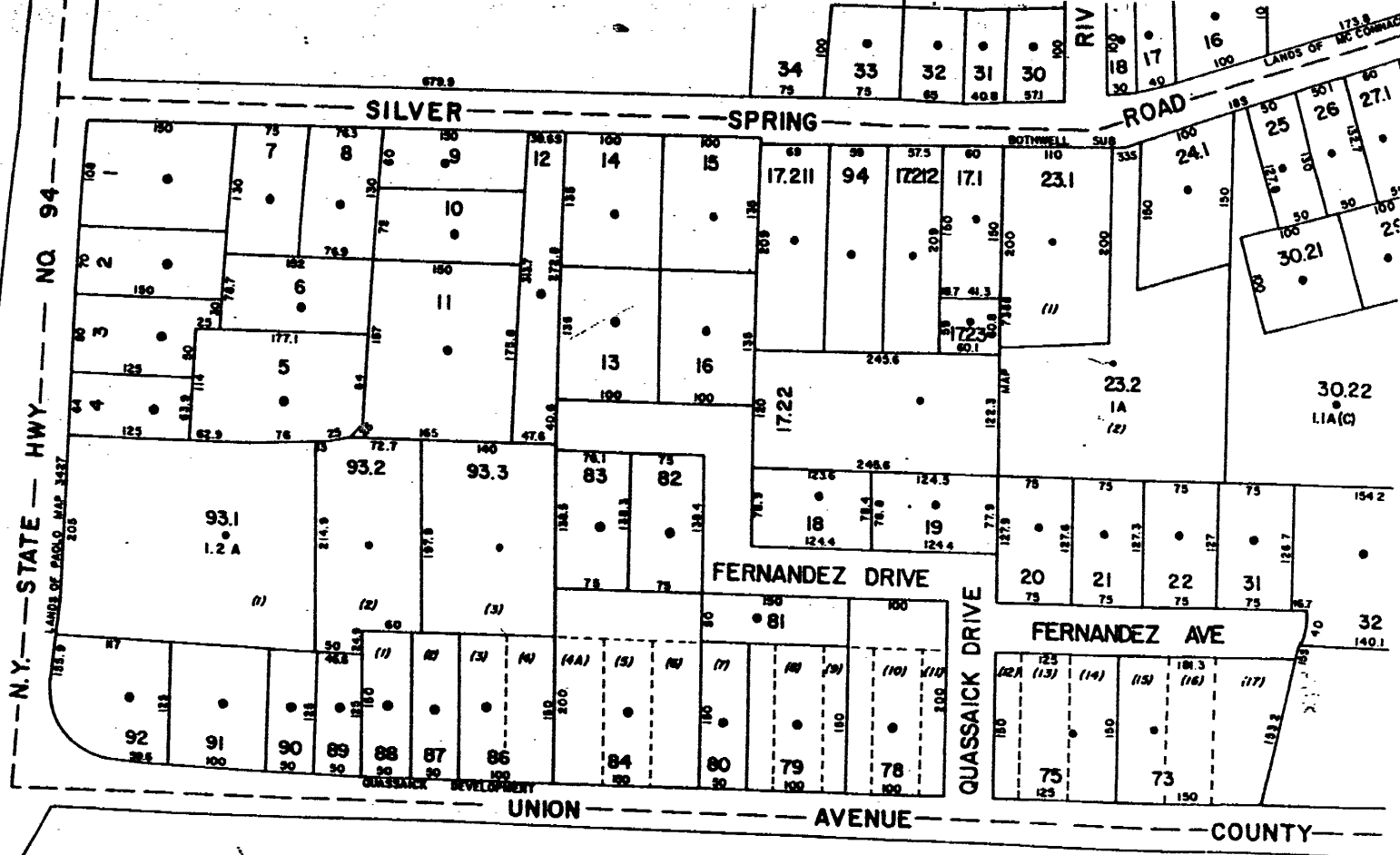
9.8A

Union Free School

SECTION



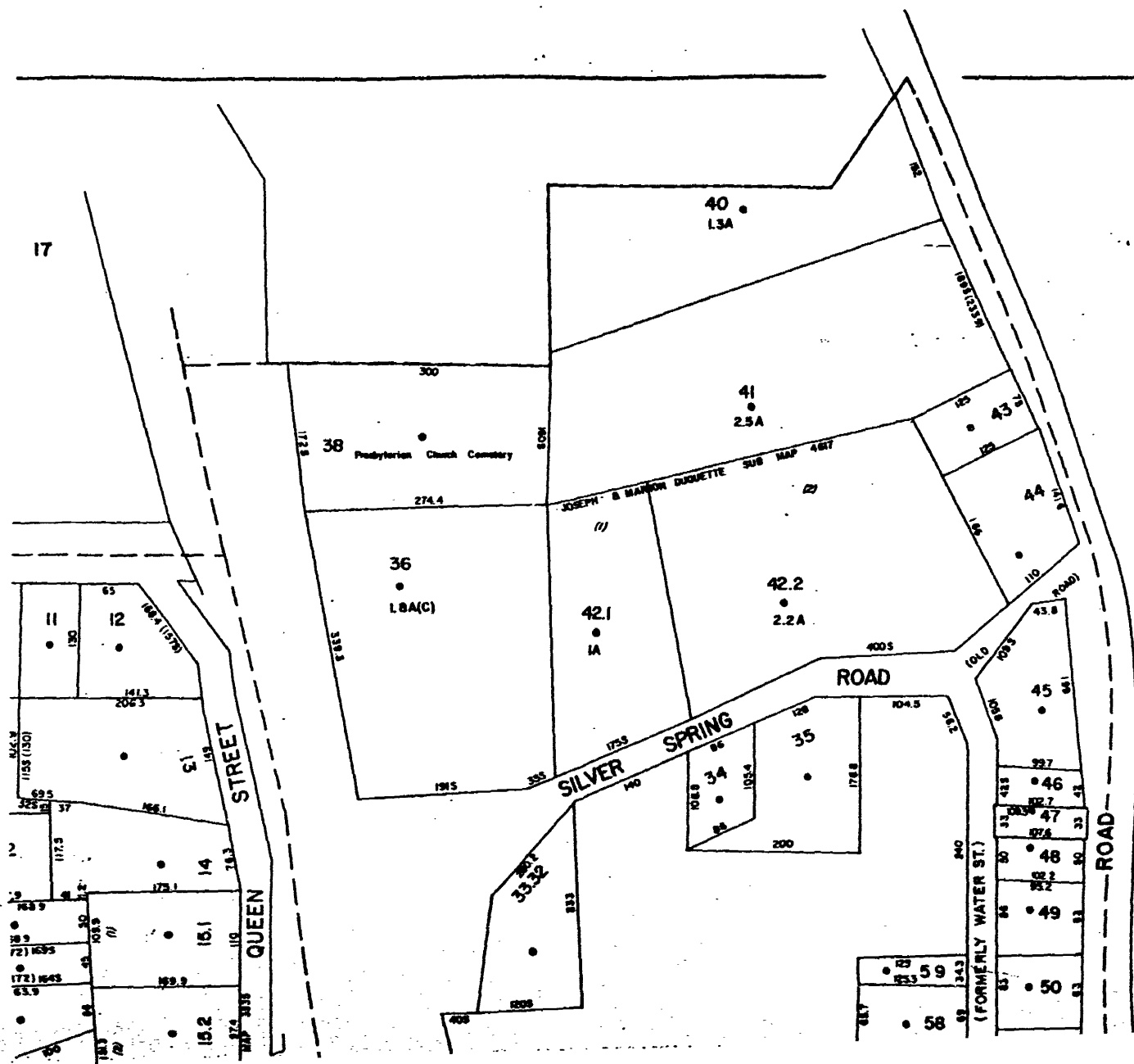


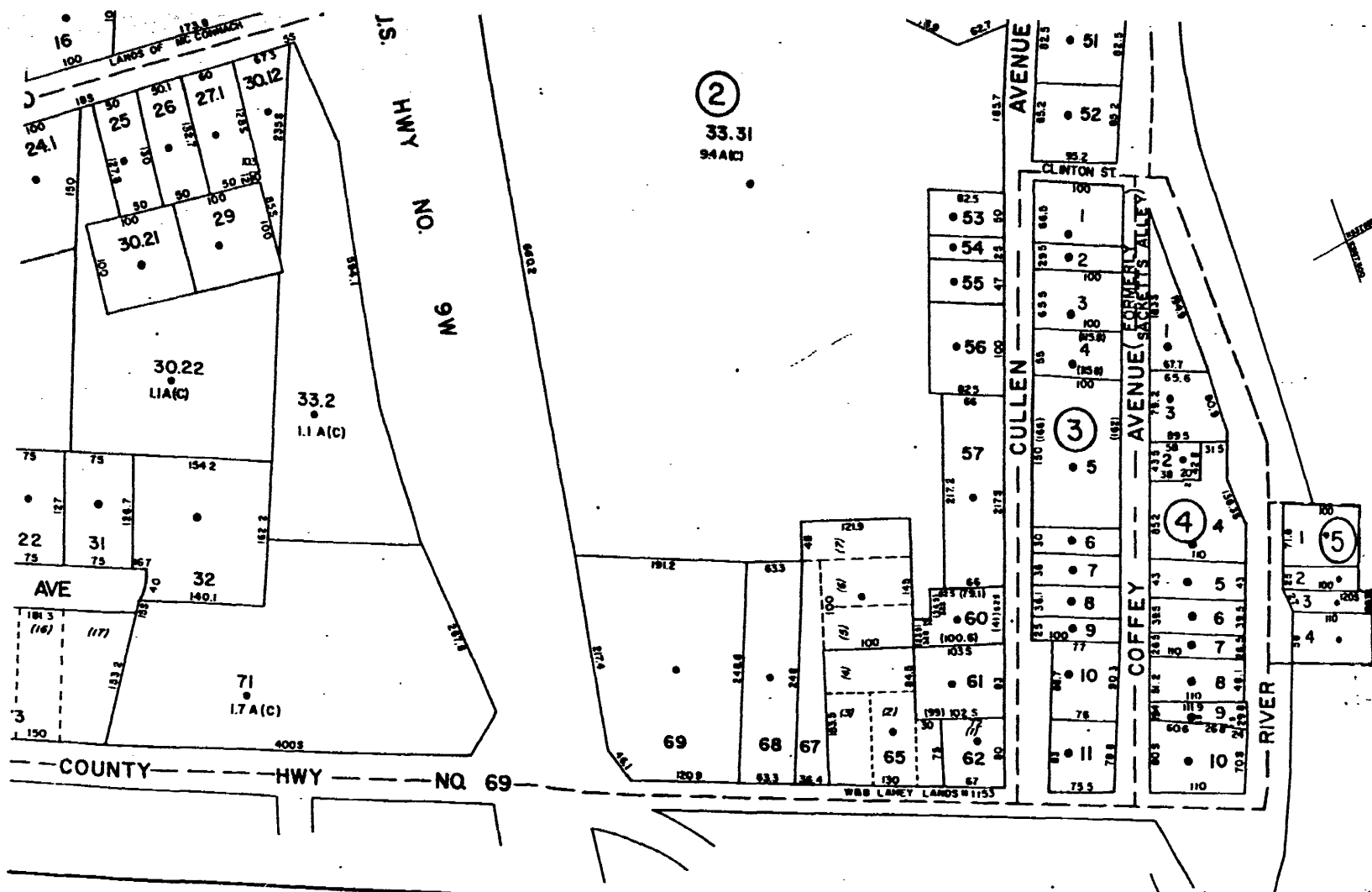


STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO.	FILED PLAN BLOCK NO.
CITY TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL NO.	FILED PLAN LOT NO.
BLOCK & SECTION LIMIT	MATCH LINE	AREAS (Deed) (11.1) (11.2) (11.3) (11.4)	STATE HIGHWAYS N.Y. STATE
SPECIAL DISTRICT LINE	STREAMS	DIMENSIONS (Deed) as (Scaled) pos	COUNTY HIGHWAYS COUNTY RD
PROPERTY LINE			TOWN ROADS TOWN RD

RGH SCHOOL  
JACK BRIDGE

W W  
20  
ONLY  
VANCE





FILED PLAN BLOCK NO.	2
FILED PLAN LOT NO.	2
STATE HIGHWAYS	N.Y. STATE HWY NO. 17
COUNTY HIGHWAYS	COUNTY HWY NO. 69
TOWN ROADS	TOWN HWY -

# ORANGE COUNTY~NEW YORK

Photo No: 14-31,32

Date of Photo: 3-1-65

Date of Map: 9-24-67

Date of Revision: 3-1-93

Scale: 1" = 100'

TOWN OF NEW WINDHAM

Section No. 20



CONVEYANCE

Rec'd.  
25A/TPO office  
10/14/98

(174)

PUBLIC NOTICE OF HEARING  
ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR

R9F  
10/26/98

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 38

Request of Michael Lucas

for a VARIANCE of the Zoning Local Law to Permit:

retail flower shop in a P.D. zone not  
permitted use;

being a VARIANCE of Section 48-9-Table of Use/Bulk Regs., Col. A.

for property situated as follows:

1105 River Road, New Windsor, N.Y.

known and designated as tax map Section 20, Blk. 2, Lot 52.

SAID HEARING will take place on the 26<sup>th</sup> day of October, 1998 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent  
Chairman

Mr. Nugent  
I have no problem with a flower shop at that location

Richard M. Grath  
RICHARD M. GRATH

I also am not opposed and spoke to our

parents who actually reside at 12 Coffey Ave  
and they also are not opposed. They  
actually think it would be a good  
thing.

Sincerely  
Maryanne H. Kissel

10/26/98

Public Hearing: Lucas, Michael

Name:

Address:

RICHARD OSTNER

82 BETHLEHEM RD  
NEW WINDSOR

no  
objection



# APPLICATION FOR VARIANCE

Date: 9/16/98.

(a) Michael D. Lucas 146 Quassak Ave New Windsor  
(Name, address and phone of Applicant) (Owner)

(b) \_\_\_\_\_  
(Name, address and phone of purchaser or lessee)

(c) \_\_\_\_\_  
(Name, address and phone of attorney)

(d) \_\_\_\_\_  
(Name, address and phone of contractor/engineer/architect)

( <u>X</u> )	Use Variance	( <u>  </u> )	Sign Variance
( <u>  </u> )	Area Variance	( <u>X</u> )	Interpretation

(a) P.I. 98 River Rd 20-2-52 8,115 s.f.  
(Zone) (Address) (S B L) (Lot size)

(b) What other zones lie within 500 ft.? \_\_\_\_\_

(c) Is a pending sale or lease subject to ZBA approval of this application? Yes.

(d) When was property purchased by present owner? 1986.

(e) Has property been subdivided previously? No.

(f) Has property been subject of variance previously? Yes.  
If so, when? 1988.

(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No.

(h) Is there any outside storage at the property now or is any proposed? Describe in detail: No.

(a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A, to allow:  
(Describe proposal) Flower Shop - Retail  
and manufacturing of arrangements, offices  
and warehousing of products - flowers.

(b) ✓ The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

Property is unusable in P.T. Zone  
because it is too small and unsuitable.  
Property for sale for 25 years.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes \_\_\_\_\_ No ✓.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance: N/A

(a) Area variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

\* Residential Districts only

\*\* No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)



whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

- (a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Regs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

- (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?
- \_\_\_\_\_
- \_\_\_\_\_

✓ VII. Interpretation.

- (a) Interpretation requested of New Windsor Zoning Local Law, Section 48-9, Table of Use-Bulk Regs., Col. A.2.

- (b) Describe in detail the proposal before the Board:

Use of property by flower shops containing  
offices and storage of flowers and related  
items.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

✓ VIII. Additional comments:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

IX. Attachments required:

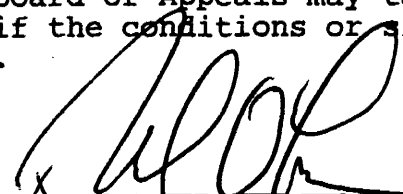
- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☐ Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- N/A. Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$500.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: 9/16/98.

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

  
(Applicant)

Sworn to before me this

16th day of Sept., 1998.

XI. ZBA Action:

(a) Public Hearing date: \_\_\_\_\_

PATRICIA A. BARNHART  
Notary Public, State of New York  
No. 01BA4904434  
Qualified in Orange County  
Commission Expires August 31, 1999.

(b) Variance: Granted (\_\_\_\_) Denied (\_\_\_\_)

(c) Restrictions or conditions: \_\_\_\_\_

---

---

---

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

**DEBORAH GREEN**  
**Notary Public, State of New York**  
**Qualified in Orange County**  
**# 4984065**  
**Commission Expires July 15, 1999**

Date 12/19/98, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... DR.

Frances Roth  
168 N. Drury Lane  
Newburgh, N.Y. 12550

DATE			CLAIMED	ALLOWED
9/14/98		Zoning Board	75.00	
		Misc - 1		
		Cestari - 2		
		Wilson - 3		
		Greer - 4		
		Lucas - 7      \$ 31.50		
		Jannotti - 9		
		N/W Partners - 18		
		Bila Partners - 42	387.00	
		86		
			462.00	

LUCAS, MICHAEL

MR. NUGENT: Request for interpretation and/or use variance for retail flower shop at 98 River road in a PI zone.

Mr. Michael Lucas appeared before the board for this proposal.

MR. LUCAS: Good evening, everyone. I have a piece of property on River Road, it's in a PI zone and I have a tenant shoe sister wants to buy it and put in a flower shop where she would make arrangements, deliver them, sell 'em. I have a lot of commercial all the way around me and it's like the only small spot in that section that is PI on that side of the road. I don't know in the beginning if it was an oversight or whatever, but I'd like an interpretation or I'd like to have a use variance.

MR. NUGENT: I think Mike you should explain to the board exactly where that piece of property is.

MR. LUCAS: It's across the street from the infamous soil burning plant, that's the easiest way to remember, it borders Pete and Dolly's, which is a bar and restaurant, other side is a vacant lot and there's an auto body shop and then directly across on one side is one of the oil companies, which is I believe that would be to the southeast of it, to the northeast of it would be Lightron and there's one other oil company in there, so it's in a very busy commercial zone and I don't know, I'd like to have like, I say I have an interpretation, I have a tenant that--

MR. KANE: What's in there now?

MR. KANE: I have my shop in there, I'm a carpenter by trade, I have a little, you know, I do some fabricating in this store, and stuff like that, so I'm in the process of, I'm doing a couple other things and I have a, it's been tough, I have had it for sale for quite a while and one of the reasons why of course is the soil burning plant, I was on the planning board, no, it's before I got on the planning board that that was

brought up, and since then, we have kind of straightened that out down there pretty well. But doesn't help selling the building. So being commercial, it would sell a lot easier. And as it is now, I don't know other than what I have in there what could go in there, it's such a small piece of property and I think it would enhance the area and I think that I keep the property nice and people that live there keep their property nice and I think it would be an added bonus to the town to have that down there.

MR. NUGENT: Mike, my question has to be what zone is that allowed NC zone?

MR. BABCOCK: Well C zone, NC zone.

MR. TORLEY: If he has a carpenter shop there now, do you do any retail selling out of that?

MR. LUCAS: Not really. I do some windows and doors there, if I have people come, I have samples and stuff, but I don't have a sign up that says retail. I keep samples, I keep my doors in there, my equipment.

MR. TORLEY: Mike, size wise, the lot is smaller than any permitted use lot.

MR. BABCOCK: That's correct, any use in the PI zone typically for that area is 80,000 square feet, which is substantially larger than what this lot is.

MR. NUGENT: This lot can never be used for--

MR. BABCOCK: That is the problem with the building, the way the building's positioned on the lot now.

MR. NUGENT: The whole lot isn't that big.

MR. BABCOCK: Even if he wanted to use it for a PI zone, would require a substantial amount of area variances.

MR. REIS: What's the size of the property, Mike?

MR. BABCOCK: 31,000.

MR. LUCAS: I haven't looked myself in the, I have the code book too, but it is all commercial down there. I mean, on that side of the road, why that little piece of property was zoned PI, I have no idea. You couldn't, whoever did it, you couldn't use it for anything other than small retail shop, like I use it for or storage.

MR. TORLEY: Rest of the side of the road is C?

MR. BABCOCK: No, it's PI, but I think that the PI was created after these businesses were there, they are non-conforming uses.

MR. REIS: What's the square footage of the building, Mike?

MR. LUCAS: Probably around 900 square feet, the first floor and I have a tenant on the second floor, I have a caretaker apartment, it went in front of the planning board and zoning board ten years ago, Mike?

MR. BABCOCK: 1988.

MR. LUCAS: Eleven years ago and Mike has a copy of two story block building and it is, it's all block and second floor is not framed, it's block and just a bit as it says here, nothing's really changed on the whole thing, it's still the same.

MR. KRIEGER: I imagine that is the purpose of the interpretation but I'd be interested to see what he has to say specifically not now but at the public hearing. Mr. Chairman, if I may, I represented the applicant when he purchased the property, in the nature of disclosure I do not now represent him on anything concerning this property sale or lease or any of the things that he's mentioned but at the time he purchased it years ago, I did.

MR. NUGENT: I don't have a problem with that.

MR. TORLEY: Can I ask what's the basis for the interpretation?



MR. LUCAS: Well, because it is what I feel in a commercial area and it's in the PI zone, but since I kind of used it for retail also, I didn't know, I mean that was the intent when I moved in, I'd have windows on display and doors which I do now. I'd like to, she's basically doing the same thing, but with a different type of product, she's going to have flowers, make arrangements and deliver them and have a small retail business and what other nice business could they have than a flower shop.

MR. KRIEGER: Specifically, Mr. Torley, the use listed in A2 of the uses column.

MR. NUGENT: That would be the closest that I could come to.

MR. TORLEY: Could this be considered as basically continuation of a pre-existing non-conforming use?

MR. BABCOCK: No, he got a planning board approval in 1988.

MR. TORLEY: That planning board approval in 1988 would have covered his use of the building?

MR. BABCOCK: Well, in 1988, it wasn't so clear, that's the problem. It does, the map that he has approval for that I have in front of me that's got a stamp by the planning board says first floor block shop and office. In the zoning regulations, there's no use group. Normally, today, they put in whatever the use group is that they are going to use. So I don't know that the planning board knew at that time that I know he's got his office and shop, he does sell windows, he does sell siding, he sells whatever he wants to sell as far as his carpenter business is, our feeling is that it's not clear enough on this map for me to say yes, he's continuing retail business there and that's why he's here tonight.

MR. KANE: You're doing retail and sales out of there, everything is geared out of your building?

MR. LUCAS: I don't have signs up.

MR. KANE: Sales tax is geared to that address?

MR. LUCAS: Yes, in fact, since 911 came in, its different.

MR. KANE: Same building?

MR. LUCAS: Haven't changed since the day I walked in there.

MR. TORLEY: If you can show that retail sales record is continuous from this point, I would say that this is just continuation of a use that had been approved by the planning board.

MR. NUGENT: Continuation of non-conforming use.

MR. BABCOCK: Well, continued use.

MR. NUGENT: He never stopped using it, it's still--

MR. LUCAS: But then also it is if you want, fire inspectors make a record every six months coming in and make an inspection and they can verify what I use it for, you can ask them.

MR. TORLEY: Tax records are probably better, Andy, if you're considering this as a continuation of a previously approved non-conforming use, do we need to make that interpretation in a public hearing?

MR. KRIEGER: Yes.

MR. LUCAS: I would like to have a public hearing and I will tell you why, it's because I'm a member of the planning board, and I want to make sure that this follows procedure.

MR. KRIEGER: Plus the fact Mr. Torley if this applicant or any subsequent owner should attempt to get financing for any reason based on that building, as they are present in line with the present practices, the lending institution will ask for that sort of

thing, so it's better to make a record.

MR. KANE: Accept a motion?

MR. NUGENT: Yes, I will.

MR. KANE: I move we set up Michael Lucas as for a public hearing on his requested interpretation for 98 River Road.

MR. REIS: Second it.

MR. TORLEY: Do you want to add in a use variance request?

MR. KANE: Yes, yes, request for interpretation and/or use variance.

MR. REIS: Second it.

ROLL CALL

MS. OWEN	AYE
MR. TORLEY	AYE
MR. KANE	AYE
MR. REIS	AYE
MR. NUGENT	AYE

MR. LUCAS: Thank you very much, I appreciate it.

MR. KRIEGER: What about signs?

MS. BARNHART: I just reminded him about that.

MR. KRIEGER: If it's going to be--

MR. BABCOCK: Mr. Chairman, if the board considered that it would be a use variance, we didn't want to guess it because we want to make sure that they are allowed to be there before we decided what size sign.

MR. LUCAS: There was a variance granted, no, wasn't a variance granted but there was original plans in front of planning board in '88, there was a sign where it was going to be set on the property, since then, I know

that we need a separate permit.

MR. NUGENT: All depends what size.

MR. BABCOCK: They are allowed a 64 square foot sign on this piece of property, I would assume that he should talk to his future buyer about it, but I would assume they'd be able to comply with a 64 square foot sign.

MR. KRIEGER: If they can work within the statute then--

MR. BABCOCK: I would assume that would be a large enough sign for that piece of property but you should talk to them.

MR. LUCAS: I will, thank you very much.



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (914) 563-4631  
Fax: (914) 563-4693

(29)

## Assessors Office

September 28, 1998

Michael Lucas  
146 Quassaick Avenue  
New Windsor, NY 12553

Re: Tax Map Parcel 20-2-52

Dear Mr. Lucas:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$45.00, less your deposit of \$25.00. Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

*Leslie Cook /cmo*

LESLIE COOK  
Sole Assessor

/cmo  
Attachment



9-1-97  
IDC Soils Reclamation Inc.  
PO Box 7457  
Newburgh, NY 12550

9-1-100  
Belcher Co. of NY Inc  
C/o Coastal Fuels Mkg.  
Houston, NY 77210

20-2-33.31  
Richard A. Ostner  
82 Bethlehem Road  
New Windsor, NY 12553

20-2-33.32  
Michael T. Shramek  
Dba Home Tech Builders  
8 Ashwood Terrace  
Newburgh, NY 12550

20-2-34  
William & Jean Tubbs  
29 Silver Spring Road  
New Windsor, NY 12553

20-2-45.2  
Joseph J. Dellfiora & Blanche Drapun  
42 Frost Lane  
Cornwall, NY 12518

20-2-47  
Philip & Yvette Sayles  
12 Silver Spring Road  
New Windsor, NY 12553

20-2-48  
James & Susan Krieger  
Route 94, Box 101  
New Windsor, NY 12553

20-2-49  
William Klein  
Box 243  
Wallkill, NY 12589

20-2-50  
Kathleen Shotmeyer  
1 Valley St.  
Hawthorne, NJ 07506

20-2-53  
Victor Konkol Jr.  
PO Box 324  
Vails Gate, NY 12584

20-2-54  
54-55 Vanessa St. Corp,  
228 Broadway  
Newburgh, NY 12550

20-2-55  
Roy & Shirley Bardsley  
16 Cullen Ave.  
New Windsor, NY 12553

20-2-56  
Robert P. Welsh  
14 Cullen Ave  
New Windsor, NY 12553

20-2-60  
Ronald & Anne Beasley  
6 Cullen Ave.  
New Windsor, NY 12553

20-2-65  
John V. & Joan Morse  
16 Union Ave  
New Windsor, NY 12553

20-3-3  
County of Orange  
255-275 Main St.  
Goshen, NY 10924.

20-3-4  
Jon W. Colson  
17 Coffey Ave  
New Windsor, NY 12553

20-3-5  
Dale Prokosch  
PO Box 4065  
New Windsor, NY 12553

20-3-6  
Stella Lahey  
11 Coffey Avenue  
New Windsor, NY 12553

20-3-7  
Albert P. Rossi Jr.  
7 Coffey Ave  
New Windsor, NY 12553

20-3-9  
Christopher Koch  
5 Coffee Ave  
New Windsor, NY 12553

20-4-1  
Patrick & Mildred Benish  
1101 River Road  
New Windsor, NY 12553

20-4-2  
William R. Sr. & Florence J. Bowman  
18 Coffey Ave  
New Windsor, NY 12553

20-4-3  
Family Mortgage Service  
11350 McCormick Road  
Hunt Valley, MD 21031

20-4-4  
John Zalesak  
14 Coffey Ave  
New Windsor, NY 12553

20-4-5  
Maryanne Kissel &  
Richard McGrath  
PO Box 142  
Cragmoor, NY 12420

20-5-1  
Elizabeth Snayber  
5 Cooper Road  
Pine Bush, NY 12566

20-5-2  
William C. Haskin Jr.  
1073 River Road  
New Windsor, NY 12553